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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,045	01/17/2002	Ebba A. Hansen	53394.000582	1178

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EXAMINER	
KIDWELL, MICHELE M	
ART UNIT	PAPER NUMBER
3761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/050,045	HANSEN, EBBA A.	
	Examiner	Art Unit	
	Michele Kidwell	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) *8-15 and 17-26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,16 and 27-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 – 7, 16 and 27 – 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pieniak et al. (US 6,123,694) and further in view of Goldman et al. (US 5,562,646)

With reference to claim 1, Pieniak et al. (hereinafter "Pieniak") discloses an absorbent article having a longitudinal dimension and a lateral dimension comprising a topsheet (30) a backsheet (26), whereby the topsheet and the backsheet form a first waist region, a second waist region longitudinally opposite the first waist region, and a crotch region therebetween (figure 2) and an absorbent core (28) at least partially disposed between the topsheet and the backsheet as set forth in figure 3.

The difference between Pieniak and claim 1 is the provision that the absorbent core is a laminate core comprising at least four layers.

Goldman et al. (hereinafter "Goldman") discloses an absorbent laminate core (20) comprising at least four layers (32,36,40,44,48,52) whereby two of the layers are outer layers comprising an upper layer (36) and a lower layer (52), said upper and lower layers independently comprising a tissue or a tissue-like material (col. 33, lines 50 – 57) and one of the inner layers (44,48) disposed between the upper layer and the lower

layer is a central fibrous layer containing from about 30 to about 50% by weight super absorbent polymer (col. 34, lines 36 – 47) and continuous crimped filament tow fibers (col. 28, lines 35 – 54) that extend the length of the absorbent core whereby the absorbent laminate core comprises at least one additional inner layer disposed between the upper layer and the lower layer, the additional inner layer being selected from the group consisting of a fluid acquisition layer, a distribution layer, an additional fibrous layer, a wicking layer, a storage layer, and combinations and fragments thereof as set forth in col. 33, lines 50 – 61.

It would have been obvious to one of ordinary skill in the art to modify the core of Pieniak by providing the absorbent laminate core of Goldman because the absorbent laminate core of Goldman provides an absorbent member having good wet integrity as taught by Goldman in col. 1, lines 14 – 18.

As to claim 2, Pieniak discloses an absorbent article further comprising at least one fastening element attached to a lateral edge of the first waist region and one or more target devices attached to the article in the second waist region, where at least one fastening element and the one or more target devices are capable of attaching to one another, the one or more target devices being located so that the first waist region and the second waist region of the garment may be joined to one another to secure the garment on a wearer as set forth in figure 1.

With reference to claim 3, Pieniak discloses an absorbent article further comprising elastic leg gathers (32) comprising one or more elastic materials (38) disposed adjacent the lateral edge of the crotch region, and standing leg gathers

disposed on the topsheet adjacent the lateral edge of the crotch region as set forth in figure 3.

Regarding claim 4, Pieniak discloses an absorbent article wherein the at least one fastening element comprises a hook portion of a hook and loop fastener and the one or more target devices comprise the loop portion of a hook and loop fastener as set forth in col. 4, lines 26 – 33.

As to claim 5, Pieniak discloses an absorbent article wherein the at least one fastening element is an adhesive tape and the one or more target devices comprise a tape receiving surface as set forth in col. 4, lines 15 – 27.

With respect to claim 6, Pieniak discloses an absorbent article wherein the at least one fastening element is comprised of a pair of laterally extending tabs disposed on the lateral edges of the first waist region, whereby the laterally extending tabs each include at least one fastening element as set forth in col. 4, lines 15 – 33 and in figures 1 – 2.

Regarding claim 7, Goldman discloses an absorbent article wherein the absorbent laminate comprises just one additional inner layer disposed between the upper layer and the lower layer, and the additional inner layer is a fluid acquisition layer (40) as set forth in col. 34, lines 17 – 19.

Goldman discloses that it is important for the additional inner layer (40), which is positioned between the upper and lower layers, to allow acquired body fluids to pass rapidly therethrough, just as a fluid acquisition layer, in col. 34, lines 17 – 19.

As to claim 16, Goldman discloses an absorbent article wherein the absorbent laminate core comprises an upper layer (36), a lower layer (52), a central fibrous layer disposed between the upper layer and the lower layer (44,48) and an additional inner layer (40) disposed between the central fibrous layer and the upper layer, the additional inner layer being selected from a fluid acquisition layer, or a combination of a wicking and distribution layer as set forth in col. 34, lines 17 – 19.

With reference to claim 27, Goldman discloses an absorbent article wherein the central fibrous layer comprises from about 50% to about 95% by weight super absorbent polymers (SAP), and has a SAP efficiency of at least 80% as set forth in col. 34, lines 36 – 47.

Regarding claim 28, see Goldman, col. 34, lines 32 – 35 and col. 23, lines 14 – 32.

The difference between Pieniak in view of Goldman and claim 29 is the provision that the central fibrous layer comprises fibers selected from the listed group.

Absent a critical teaching and/or unexpected result, the examiner contends that the claimed limitation is an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art.

Regarding claim 30, Goldman discloses an absorbent article wherein the central fibrous layer further comprises up to 10% by weight wood pulp fibers as set forth in col. 24, lines 31 – 40 and in col. 34, lines 36 – 45.

With respect to claim 31, Goldman discloses an absorbent article wherein the central fibrous layer further comprises particulate additives as set forth on page 9, in paragraph 0087.

With reference to claim 32, absent a critical teaching and/or unexpected result, the examiner contends that the claimed limitation is an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art.

As to claim 33, Goldman discloses an absorbent article wherein the particulate additives are selected from the listed group as set forth in col. 24, lines 53 – 65.

With respect to claims 34 – 45, see the preceding rejection of Pieniak in view of Goldman since claims 34 – 45 recite a method that would necessarily flow from the article claims 1 – 7, 16 and 24 – 33 as previously rejected.

Response to Arguments

Applicant's arguments filed December 13, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's argument that Pieniak fails to discloses a central fibrous core containing a mixture of SAP and continuous crimped tow fibers, the examiner contends that this was acknowledged in the rejection of claim 1 with the statement that Pieniak fails to disclose the claimed four layer absorbent laminate core that encompasses the SAP and tow fibers.

Regarding the applicant's argument that Goldman fails to teach a substantially continuous tow fiber, the examiner disagrees. By applicant's own admission, Goldman

discloses the use of continuous tow fibers in col. 28, lines 35 – 36. The applicant provides arguments with respect to the length of the fibers disclosed by Goldman relative to the size of the article. However, it is noted that the features upon which applicant relies (i.e., a specific length of an individual fiber) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, with respect to the applicant's argument that Pieniak in view of Goldman does not disclose a continuous crimped filament tow fiber that extends the length of the core, the examiner contends that the fibers of both references meet the claimed limitations because contrary to applicant's argument, the fibers are not required to extend the complete length of the core.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele Kidwell
Primary Examiner
Art Unit 3761